

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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 Applicant Evans et al.
 Group Art Unit 2621
 Examiner Vincent F. Boccio
 Attorney's Docket No. MS1-0688US
 Title: IMPROVED DVD NAVIGATOR AND APPLICATION PROGRAMMING INTERFACES (APIS)

DECLARATION OF THEODORE YOUMANS

I hereby declare that:

1. I am currently employed by Microsoft Corporation (Applicant) as a software Test Lead. At the time of the Beta 2 release of the Windows® Millennium operating system, I worked for Applicant as a Software Test Engineer (originally on a contract basis, and then as an employee).
2. It is standard practice in the industry to test software beta releases to be sure that they function properly before distribution of the beta software to test users of the beta software ("beta testers").
3. I was in charge of testing DVD functionality of the beta releases of the Windows® Millennium operating system, including the Beta 2 release, prior to their release to beta testers.
4. I tested the Beta 2 release of Windows® Millennium operating system, prior to its distribution to beta testers, using a proprietary test program, which includes an event viewer that shows when events are properly sent from the software being tested.

5. I have been unable, using reasonable diligence, to locate a copy of the original test results from my testing of the Beta 2 release of Windows® Millennium operating system prior to its distribution to beta testers.
6. I have also been unable, using reasonable diligence, to locate any comments or reports from the beta testers discussing the performance of the DVD navigator of the Beta 2 release of Windows® Millennium operating system.
7. However, I was able to locate an archived copy of the binary code of the DVD navigator that was incorporated into the Beta 2 release of the Windows® Millennium operating system (“the Beta 2 binary”). The Beta 2 binary has a build date of Saturday, November 13, 1999, at 2:58:46 AM, about 10 days prior to the Beta 2 release of the Windows® Millennium operating system. A screen shot showing the build date of the archived Beta 2 binary is attached as Exhibit D.
8. On June 22, 2006, I reproduced the original test results of the DVD navigator of the Beta 2 release of Windows® Millennium operating system using the Beta 2 binary. Specifically, I tested the Beta 2 binary using a current version of the proprietary test program mentioned above. An exemplary portion of the test results reproduced on June 22, 2006, is shown and described in an email I sent on June 22, 2006, which is attached as Exhibit E.
9. My testing included manually calling a PlayChapter function of an application programming interface (API) of the Beta 2 binary interface, while setting the DVD_CMD_FLAG_SendEvents flag. This simulated the request a commercial multimedia player application would need to send to use this feature of the DVD navigator.

10. The relevant portion of the output from the event viewer of the proprietary test program was as follows:


```
EC_DVD_CMD_START - Command: 00000006, HRESULT: 00000000
EC_DVD_CHAPTER_START = Ch: 3
EC_DVD_CMD_END - Command: 00000006, HRESULT: 00000000
```

11. The first line of the test result output is an event that you only get when you set the DVD_CMD_FLAG_SendEvents flag. Specifically, "EC_DVD_CMD_START" is the textual representation of the event code, indicating that the requested action has just begun. "- Command: 00000006," is the index of the command being sent, and is included so a developer can easily match the begin and end events. In this case the PlayChapter command was the sixth command I sent. "HRESULT: 00000000" is the return result. A return result of zero indicates success.
12. The second line of the test result output shows the normal event you would get from calling the PlayChapter API, indicating the start of a new chapter. Specifically, "EC_DVD_CHAPTER_START" is the textual representation of the event code indicating that the chapter has changed (in this case it is in response to my PlayChapter command). "= Ch: 3" indicates the chapter of the current title that is now playing (in this case it was chapter three).
13. The third line of the test result output shows an event you only receive when setting the flag, and indicates that the action (in this case PlayChapter) has completed. Specifically, "EC_DVD_CMD_END" is the textual representation of the event code indicating that the command you just sent has ended. "- Command: 00000006," is the index of the command being sent (note that this matches the index in the starting event). "HRESULT: 00000000" is the return result, again indicating success.

14. Based on the test results reproduced on June 22, 2006, the Beta 2 binary implemented the features presently recited in the claims of the above-captioned application.
15. Since the Beta 2 binary is the same DVD navigator that was shipped with the Beta 2 release of Windows® Millennium operating system, the DVD navigator in the Beta 2 release of Windows® Millennium operating system also must have implemented the features presently recited in the claims of the above-captioned application, as of the release date of the Beta 2 release of Windows® Millennium operating system.

All statements made herein of my own knowledge are true, and all statements made on information and belief are believed to be true. Further, these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the application or any patent issued therefrom.

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